



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

Date:

Contact Person:

UI LIST:

UI No. 4942.03-07

Identification Number:

Telephone Number:

Employer Identification Number:

Legend:

a = 2001

x = \$100,000

M = Museum of American Culture

Dear Sir or Madam:

This is in reply to your written request for approval of a set-aside under section 4942(g)(2) of the Internal Revenue Code. You have been recognized as exempt under section 501(c)(3) of the Code and have been determined to be a private foundation under section 509(a) of the Code.

You intend to purchase and rehabilitate M, which is an historical museum. You request a set-aside amount of x in each calendar year 1996 through 1999 to be spent on a project involving the purchase and rehabilitation of the facility into a museum. You provided specific information that describes the project and estimated amounts required to complete the project. You also estimate that the project will be completed before the end of calendar year a. You have provided a representation that amounts set aside will actually be paid within 60 months after the date of the first set-aside. You also provided information that shows that you need to set aside amounts to accumulate sufficient funds to pay for the project since the immediate payment of funds will not be adequate to meet the anticipated costs.

Section 4942(g)(2)(A) of the Code states that an amount set aside for a specific project

which comes within one or more purposes described in section 170(c)(2)(B) may be treated as a qualifying distribution if it meets the requirements of subparagraph (B).

Section 4942(g)(2)(B) of the Code states that an amount set aside for a specific project shall meet the requirements of this subparagraph if at the time of the set-aside the foundation establishes to the satisfaction of the Secretary that the amount will be paid for the specific project within 5 years and either clause (i) or (ii) are satisfied.

Section 4942(g)(2)(B)(i) of the Code is satisfied if, at the time of the set-aside, the private foundation establishes to the satisfaction of the Secretary that the project is one which can better be accomplished by such set-aside than by immediate payment of funds.

Section 53.4942(a)-3(b)(1) of the Foundations and Similar Excise Taxes Regulations provides that a private foundation may establish that a project is one which can be better accomplished by a set-aside than by immediate payment of funds if the set-aside satisfies the suitability test described in subparagraph (2) of this paragraph.

Section 53.4942(a)-3(b)(2) of the regulations provides that specific projects that can be better accomplished by the use of a set-aside include, but are not limited to, projects in which relatively long-term grants or expenditures must be made that require an expenditure of more than one year's income in order to assure the continuity of particular charitable projects.

In Rev. Rul. 74-450, 1974-2 C.B. 388, an operating foundation's conversion of a portion of newly acquired land into an extension of an existing wildlife sanctuary and the remainder into a public park under a four-year construction contract, under which payments are made mainly during the last two years, was held to constitute a "specific project" and the foundation's set-aside of all its excess earnings for four years was treated as a qualifying distribution under section 4942(g)(2) of the Code.

Based on the information furnished, your set-aside program is approved under section 4942(g)(2) of the Code. As required under section 4942(g)(2), the set aside amount must be paid within the 60 month period after the date of the first set-aside.

Your approved set-aside(s) shall be evidenced by the entry of the dollar amounts involved on your books and records as pledges or obligations to be paid by the date specified. The amounts set aside will be taken into account for purposes of determining your minimum investment return under section 4942(e)(1)(A) of the Code, and the income attributable to your set aside(s) will also be taken into account in computing your adjusted net income under section 4942(f) of the Code.

This letter will be made available for public inspection under section 6110 of the Code after certain deletions of identifying information are made. For details, see enclosed Notice 437, *Notice of Intention to Disclose*. A copy of this letter with deletions that we intend to make available for public inspection is attached to Notice 437. If you disagree with our proposed deletions, you should follow the instructions in Notice 437.

This letter is directed only to the organization that requested it. Section 6110(k)(3) of the Code provides that it may not be used or cited by others as precedent. If you have any questions

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about this letter, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely,

Robert Choi
Acting Director, Exempt Organizations
Rulings and Agreements

Enclosure
Notice 437